IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30635 of 2004(S)

OA.287/2004 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. **THE DIVISIONAL RAILWAY MANAGER,**
   (PERSONNEL), SOUTHERN RAILWAY, PALGHAT.

2. **UNION OF INDIA, REPRESENTED BY**
   SECRETARY, MINISTRY OF RAILWAYE, RAILWAY BOARD,
   NEW DELHI.

3. **THE ASSISTANT ENGINEER,**
   SOUTHERN RAILWAY, MANGALORE.

BY ADV. SRI.M.C.CHERIAN,SR.SC.,RAILWAYS.

RESPONDENT:

V.NARASIMHA SHENOY, RETIRED STATION
MASTER, RESIDING AT OPPOSITE I.O.C.PETROL PUMP,
NELLIPPADY, KASARAGODE DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.30635/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER/ APPLICATION DTD. 27/12/2003 OF RESPONDENT TO RAILWAY.

EXT.P.2: COPY OF THE ROUTE MAP SHOWING THE PLACES, RAILWAY STATIONS ETC. TO BE COVERED FOR REACHING THE DESTINATION OF RESPONDENT.

EXT.P.3: COPY OF THE O.A. NO. 287/2004 (WITH ANNEXURES) FILED BY RESPONDENT IN C.A.T.

EXT.P.4: COPY OF THE REPLY STATEMENT OF RAILWAY IN O.A. NO. 287/2004.

EXT.P.5: COPY OF THE ORDER DTD. 21/062004 OF CAT IN O.A. NO. 287/2004.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 30635 OF 2004-S

Dated 16th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are the respondents in O.A.No.287/2004 before the Central Administrative Tribunal, Ernakulam Bench. The respondent was the applicant.

2. The respondent was a retired Station Master of the Railways, residing at Kasaragod. He wanted to go on a pilgrimage from Mangalore to Daund. So, he submitted Ext.P1 application for the same. When the application was not considered, he filed the above said O.A., a copy of which is produced as Ext.P3. The respondents in the O.A., who are the petitioners herein filed Ext.P4 reply statement, contending that the route applied for is not permissible in terms of the relevant Rules. The Tribunal after hearing both sides allowed the O.A., by Ext.P5 order dated 21.6.2004 and ordered to grant the pass as applied for by the applicant, if he submits an application for the year 2004-05. The Railways challenge Ext.P5 in this

writ petition.

3. The learned counsel for the Railways referred to Ext.P2, which shows the route applied for, the shortest route and the probable alternative route to the shortest route. It is pointed out that the shortest route is Mangalore-Madgoan-Miraj-Pune-Daund. The alternative route is Mangalore-Madgoan-Ratnagiri-Mumbai-Pune-Daund. The route applied for is Mangalore-Shornur-Palakkad-Chennai-Arkkonam-Renigunda-Gundackal-Wadi-Sholapur-Daund. The length of the shortest route is 675 kms and that of the alternative route is 1155 kms. The route applied for runs to a distance of 1912 kms. The learned counsel for the petitioners submitted that the route applied for by the respondent is circuitous and the same cannot be treated as an alternative route, as the same is understood in common parlance. Therefore, the Tribunal should not have been allowed the Original Application, it is submitted.

4. The learned counsel for the respondent relying on Rules 3(vii)(a) (b) and (c) of Schedule II of the Railway Servants (Pass) Rules, 1986, submitted that the route applied for is permissible. The said Rules read as follows:

> "(vii) Privilege pass shall be issued for journey from the starting station to the destination station as desired by the railway servant, via shortest route, provided that a longer route

may be permitted on the Privilege Pass in the following circumstances:

(a) Two alternate routes are available for a destination, for example, Bombay to Calcutta via Nagpur or via Allahabad and Bombay to Delhi by the Central Railway or by the Western Railway – such passes may be permitted by either route irrespective of the distance involved or

(b) If the distance to destination via a longer route preferred by the Railway Servant does not exceed by fifteen per cent of the distance via the direct route such passes may be issued even if a double journey over a small portion is involved (for example – ex-Chittaranjan to Kancharapara via Howrah or ex-Lucknow to a station on the Southern/South Central Railway via Bombay V.T.), provided the distance does not exceed the distance via the shortest route by more than 15% to take advantage of terminal facilities as in Bombay V.T., Kalyan or Madras-Arkkonam sections; or

(c) If the longer route to destination is quicker than the direct route irrespective of distance involved."

5. Going by the facts of the case, we feel that the contention of the Railways has to be accepted. From Kochi to Delhi the old route was through Olavakkode-Arkkonam-Renigunda-Vijayawada-Nagpur-Jhansi-New Delhi. The new route is through Konkan Railways. So, they can be described as alternative routes. But, if one is trying to travel from Kochi to Kolkatta and from Kolkatta to Delhi, it can no way be described as an alternative route from Kochi to New Delhi. So, going by the sketch, which is produced as Ext.P2 in this writ petition, the route applied for is a circuitous route and

therefore, no pass could be issued for the said route in terms of the Rules. The Rule relied on by the learned counsel for the respondent also does not support him. In the result, Ext.P5 is quashed. But, if the respondent applies for a pass through the shortest route or the alternative route, the same shall be considered and disposed of within one month from the date of receipt of that application.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/